IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA.

CWP No.: 743 of 2006.

Decided on: 11.06.2007.

Power Grid Corporation of India Ltd. … Petitioner.

Versus

Shri Piare Lal. … Respondent.

Coram:

The Hon'ble Mr. Justice Rajiv Sharma, J.

Whether approved for reporting?[1] *No.*

For the petitioner: Mr. K.D. Shreedhar, Advocate.

For Respondent: Mr. Romesh Verma, Advocate.

Rajiv Sharma, Judge:

This petition arises out of the award dated 2.5.2006 announced by the Additional District Judge, Shimla under Section 16 (3) of the Indian Telegraph Act, 1885.

The brief facts which can be culled out from the pleadings of the parties are that the land of the respondent comprised in Khasra No.230, Khata No.14, Khatauni No.16, measuring 1 bigha 4 biswas situated Mauza Kothi, Tehsil Kotkhai, District Shimla, H. P. had been utilized by the petitioner-Corporation for the construction of tower for laying down transmission line from Nathpa Jhakri to Abdullapur causing

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Whether reporters of local papers may be allowed to see the judgment? No.

damage to 20,000 apple plants in the shape of nursery and 12 fruit bearing apple plants between the age group of 8 years. The respondent had been paid a sum of Rs.12,000/- as compensation on account of damage caused to the apple plants. The respondent had filed claim petition before the learned Additional District Judge on 18.12.1999. The petitioner-Corporation had filed reply to the claim petition. The learned Additional District Judge had awarded a sum of Rs.1,78,776/- as compensation with interest at the rate of 7.5 per cent to the respondent.

Mr. K.D. Shreedhar appearing on behalf of the petitioner-Corporation had strenuously argued that the award dated 2.5.2006 is not sustainable in the eyes of law. Mr. Romesh Verma, Advocate appearing on behalf of the respondent had supported the award dated 2.5.2006.

I have heard the parties and gone through the record.

Admittedly, damage has been caused to apple plants of the age group of eight years belonging to the respondent. The respondent had examined himself as PW-3 and had deposed that he had raised an orchard over the land and also a nursery of 20,000 plants on 12 biswas of land and on account of construction of tower, 12 apple plants in the age group of eight years were damaged and seven plants were uprooted. Shri B.S. Bajwa, retired Deputy Director, Horticulture was examined as PW-3. He had deposed that the respondent has suffered a loss to the extent of 1,54,719/- on the basis of Harbans Singh Formula.

Shri S.N. Thakur had appeared as RW-1 and admitted the laying down of Nathpa Jhakri-Abdullapur transmission line. The damage caused to the apple trees is not denied by the petitioner-Corporation. The copy of the criteria adopted by the State of Himachal Pradesh in the year 2001 for the assessment of damage caused to the fruit bearing trees was also placed on record. The damage has been caused to the apple trees in the year 1997.

This Court has held in **Union of India and others Versus Khazana Ram and others** reported in 1998 (1) SLC, 479 as under:-

> ***"So far the present case is concerned, the year of assessment is 1989 and if we rely upon the Price Index filed along with the replies to the stay applications in the writ petitions, the Price Index has arisen from 79.7 in the year 1966 to 428.8 in the year 1988 taking the Price Index as 100 for the base year 1970-71. The Price Index for the year 1989 has been shown 176.4 by taking 100 for the base year 1981-82. Therefore, the increase from 1966 to 1989 will be approximately five times. Accordingly, we hold that the ends of justice would be met if the claimants are given compensation five time of the compensation assessed by the Department as per Annexure PB to the writ petitions and Ext. RW-1/A on the file of the District Judge. Accordingly, the writ petitions are partly allowed, whereas, the revision petitions are dismissed and the impugned awards dated 29.4.1997 passed by District Judge, Bilaspur are modified. No costs."***

The learned Additional District Judge had correctly enhanced the compensation on the basis of Harbans Singh

Formula and after taking into consideration the price rise index between the period 1966 to 2001. The method adopted by the learned Additional Judge cannot faulted with. A sum of Rs.1,78,776/- awarded to the respondent is a just and fair compensation for the damage caused to the apple plants.

There is neither any jurisdictional error nor any procedural irregularity in the award dated 2.5.2006 announced by the learned Additional District Judge.

Accordingly, there is no merit in the writ petition and the same is dismissed. The award dated 2.5.2006 is up-held and interim order dated 23.8.2006 confirmed on 4.1.2007 is vacated. There shall be no order as to costs.

June 11, 2007
(sck).

(Rajiv Sharma)
Judge